

REMARKS

Claim 28 is canceled without prejudice, and therefore claims 14, 15, 19 to 21, 27, 29 to 31, and 33 are now pending and being considered in the present application (*since claims 22 to 26 were previously withdrawn in response to a restriction requirement*).

In view of the following remarks, it is respectfully submitted that all of the presently pending and considered claims are allowable, and reconsideration is therefore respectfully requested.

Claims 31 and 33 were rejected under 35 U.S.C. § 112 as to the written description requirement.

As to claim 31, the parameter “l” in the single-track model is sufficiently described in the specification for a person having ordinary skill in the art. In particular, the Ackerman equation in claim 31 that contains the parameter “l” is known to those skilled in the art, who would appreciate that the parameter “l” refers to the wheelbase length of a vehicle. (See, e.g., U.S. Patent 5,925,083, claim 1, stating that the parameter “l” in the Ackerman equation refers to a wheelbase length). Accordingly, the written description rejection of claim 31 should be withdrawn.

As to claim 33, it was rejected as to the written description requirement because of certain claim language relating to the contact patch forces. While the rejection may not be agreed with, to facilitate matters, claim 33 has been rewritten so as to obviate the rejection. In particular, claim 33, as presented, no longer contains this language so that the rejection should be withdrawn.

Claims 14, 15, 19 to 21, 27 to 30, and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,253,123 to Schramm et al., (“Schramm”).

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

While the rejections may not be agreed with, to facilitate matters, claims 14 and 30 have been rewritten to include the feature of “ascertaining a ratio of tire slips of individual wheels of the vehicle” and the feature in which “the center of gravity of the vehicle, including a height of the center of gravity, is estimated from a ratio of contact patch forces of an inner wheel and an outer wheel during cornering calculated from the ascertained ratio of tire slips.”

The Office Action concedes (on page 5) that Schramm does not explicitly disclose the feature of calculating a height of the center of gravity of the vehicle from a ratio of the contact patch forces of the inner and outer wheels. Instead, the Office Action asserts that it would have been obvious for one to extrapolate these forces acting on the wheels and then at least *qualitatively* estimate the height of the center of gravity of the vehicle.

In fact, however, Schramm at 11:59-12:1 specifically states that the height of the center of gravity “h” is determined by taking into account axle-specific wheel loads “mliz”, vehicle speed “vf” and path quantity “r” and not from a ratio of contact patch forces F of an inner wheel and an outer wheel during cornering calculated from the ascertained ratio of tire slips. Because Schramm specifically states that the height of the center of gravity “h” is determined by taking into account axle-specific wheel loads “mliz”, vehicle speed “vf” and path quantity “r”, it would not be obvious to extrapolate the forces acting on the wheels to estimate the height of the center of gravity of the vehicle.

Accordingly, the applied reference does not describe or suggest the features of claim 14, so that it is allowable, as are its dependent claims.

Claim 30, as presented, includes features like those of claim 14, and it is therefore allowable for essentially the same reasons, as are its dependent claims.

Claim 31 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Schramm in view of U.S. Patent No. 5,925,083 to Ackermann, (“Ackermann”).

Claim 31 ultimately depends from claim 30, as presented, so that it is allowable for essentially the same reasons as claim 30, since Ackermann does not cure – and it is not asserted to cure – the critical deficiencies of Schramm, as explained above. Withdrawal of the obviousness rejections of claim 31 is therefore respectfully requested.

As further regards all of the obviousness rejections, to the extent that Examiner relies on any Official Notice, any such Official Notice is respectfully traversed and it is requested that the Examiner provide specific evidence to establish those assertions and/or contentions that may be supported by the Official Notices under 37 C.F.R. § 1.104(d)(2) or otherwise. In particular, it is respectfully requested that the Examiner provide an affidavit and/or that the Examiner provide published information concerning any such assertions. This is because the § 103 rejections are apparently being based on assertions that draw on facts within the personal knowledge of the Examiner, since no support was provided for these otherwise conclusory and unsupported assertions. (See also M.P.E.P. § 2144.03).

Accordingly, all of claims 14, 15, 19 to 21, 27, 29 to 31, and 33 are allowable, and it is therefore respectfully requested that the rejections be withdrawn.

CONCLUSION

In view of the foregoing, it is respectfully submitted that pending and considered claims 14, 15, 19 to 21, 27, 29 to 31, and 33 are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,
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